

August 13, 2006

Board of Environmental Review
1520 E. Sixth Avenue
P.O. box 200901
Helena, Montana 59620-0901
Attention: Board Secretary

Re: Comment on Air Quality Operation Fees Rule – Amendment of ARM 17.8.501,
ARM 17.8.505, and 17.8.514

Mr. Chairman and Members of the Board:

Montana industrial facilities are a principle source of funding for the air quality permitting activities of the Montana Department of Environmental Quality (“DEQ”). This is accomplished in large part through the annual air quality operation fees that are the subject of this proposed rule. These fees are set annually under Montana law, and the DEQ has worked with effected parties through the Montana Clean Air Act Advisory Committee (“CAAAC”) to develop and explain its present fee request. The Montana Industry Clean Air Act Coalition (“Coalition”) appreciates the efforts of DEQ in this respect, and supports adoption of the proposed rule and fees for the applicable period.

Our Coalition members have participated actively with the DEQ and other stakeholders, through the Clean Air Act Advisory Committee and in other forums, to assure that there is adequate funding for core air quality programs. These fee rules are not a perfect solution. It is appropriate that they be reviewed regularly with those who pay the fees to assure cost-effective use of the funds. For example, it is appropriate to consider whether many small facilities whose regulation actually consumes significant DEQ staff time are being inadvertently subsidized. Many of our members also believe that general funding of what should be considered basic state responsibilities would be appropriate. Nevertheless, the present rule proposal represents a continuing good-faith effort by DEQ to balance program costs and responsibilities under applicable Montana statutes, and our Coalition wishes to recognize that effort by being on record with the BER in support of the proposed fee rule.

This annual rulemaking is an appropriate occasion to say that our Coalition believes strongly that DEQ should have the funds necessary to perform its core air quality permitting and compliance functions in a thorough and timely way. We have consistently supported DEQ and this Board in imposing fees that our facilities pay for the benefit of the State of Montana as a whole. We are concerned, however, that the

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DEQ's resources are often stretched to accommodate demands that, while arguably allowed under current Montana law, negatively affect the DEQ's ability to achieve its core mission of assisting and assuring compliance with the applicable requirements established by the Montana legislature. Some of these demands are attributable to federal programs or similar mandates over which Montana has limited control. Other demands, however, are imposed by third parties or the BER itself.

This rulemaking is not the forum to debate specific demands made on DEQ resources. But the imposition of nearly \$3 million dollars annually in fees, mostly paid by a handful of Montana employers, to sustain key air quality programs is an appropriate occasion to say that reasonable regulation and timely permitting are essential to maintain that financial support.

Over the years, our Coalition members have found DEQ staff to be conscientious professionals, who work hard to maintain high quality air quality programs in Montana for our common benefit. Our Coalition members, like most of the regulated community, also work hard and devote substantial financial and human resources to assure compliance with layered, complex requirements.

We urge the BER to adopt these necessary fees to support DEQ's work --- but we also respectfully urge the BER to consider, over the course of the coming year, the importance of working with the regulated community to maintain support for this important work.

Sincerely yours,

Donald W. Quander